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KENNETH STEWART III

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION

KENNETH STEWART III, a minor by and
through his Guardian Ad Litem, Beatriz
Abrego, individually and as successor in
interest to KENNETH E. STEWART, JR.,
deceased;

Plaintiff,

v.

STATE OF CALIFORNIA; SCOTT
KERNAN; RONALD DAVIS; ERIC E.
EVANS; JEFFREY M. CARLTON; APRIL D.
MAXFIELD; JACK E. DOUGERY; and
DOES 1-50, inclusive,

Defendants.

CASE NO. C18-01778-RMI

~~PROPOSED~~ ORDER APPROVING
SETTLEMENT

Action Filed: February 2, 2018
Removal: March 22, 2018
Trial Date: Vacated

1 Plaintiff KENNETH STEWART III, a minor by and through his Guardian Ad Litem, Beatriz
 2 Abrego, individually and as successor in interest to KENNETH E. STEWART, JR., deceased
 3 (“Plaintiff”) and Defendants STATE OF CALIFORNIA, SCOTT KERNAN, RONALD DAVIS,
 4 ERIC E. EVANS, JEFFREY M. CARLTON, APRIL D. MAXFIELD, and JACK E. DOUGERY
 5 (“Defendants”) have reached a final settlement of this matter.

6 After consideration of Plaintiff’s Motion to Approve Settlement, and the record as a whole, the
 7 Court finds that the proposed settlement for the benefit of Kenneth Stewart III, aka Kenneth Stewart,
 8 Jr., date of birth January 14, 2005, against defendants in the sum of \$900,000 (a copy of the proposed
 9 Agreement is attached as Exhibit C to the Declaration of Joseph S. May filed in support of Plaintiff’s
 10 motion), serves the best interests of the minor Plaintiff. Accordingly, the Court GRANTS the motion
 11 to approve the settlement. Pursuant to the Agreement, California Department of Corrections and
 12 Rehabilitation (“CDCR” or “Defendant”) shall prepare and deliver drafts for the settlement proceeds
 13 in accordance with paragraph 3 of the Settlement Agreement and Release, payable as follows:

14 (a) One check for \$186,926.75, made payable to Lepera + Associates, PC., mailed to
 15 Lepera + Associates, PC, 601 Montgomery Street, Suite 665, San Francisco, California 94111,
 16 representing \$180,000 in attorneys’ fees, and \$6,926.75 in costs;

17 (b) One check for \$181,806.41, made payable to Law Office of Joseph S. May, 1388
 18 Sutter Street, Suite 810, San Francisco, California 94109, representing \$180,000 in attorneys’ fees and
 19 \$1,806.41 in costs.

20 (c) One check for \$4,000, made payable to Beatriz Abrego, c/o Lepera + Associates,
 21 PC, mailed to Lepera + Associates, PC, 601 Montgomery Street, Suite 665, San Francisco, California
 22 94111, representing expenses incurred by Ms. Abrego, Plaintiff’s guardian ad litem, at the direction
 23 of counsel, to open probate for Decedent in order to obtain prison, medical, and mental health records
 24 that were necessary to prosecute this action;

25 (d) A check in the amount \$527,266.84 will be paid from Defendant to Mutual of
 26 Omaha Structured Settlement Company to fund an annuity for the benefit of Kenneth Stewart, III, aka
 27 Kenneth Stewart, Jr., through a policy issued by United of Omaha Life Insurance Company, rated A+
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1 by AM Best, as further described below:

2 Periodic payments made to Kenneth Stewart, III aka Kenneth Stewart, Jr. ("Payee") made
3 according to the Schedule of Payments as follows (the "Periodic Payments"):

4 \$249,387.99 lump sum payment on 01/14/2023 (age 18), guaranteed.

5 \$150,000.00 lump sum payment on 01/14/2030 (age 25), guaranteed.

6 \$201,119.61 lump sum payment on 01/14/2033 (age 28), guaranteed.

7 All the payments set forth herein constitute damages on account of personal physical injuries, arising
8 from an occurrence within the meaning of Section 104(a)(2) of the IRS Code of 1986, as amended.

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11 **IT IS SO ORDERED.**

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13 DATED: June 2, 2020

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15 HON. ROBERT M. ILLMAN
16 United States Magistrate Judge
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